

## REMARKS

### **I. Status of the Claims**

Claims 1-52 were filed with the application. All of Claims 1-52 are under consideration and have been examined and rejected. Claims 1, 10, 13, 25, 39 and 52 are hereby amended. Typographical errors in claims 10 and 52 have been corrected.

Claims 13 and 25 are rejected under 35 U.S.C. §112, second paragraph. Claims 1-6, 8, 11-13, 18-32, 34, 37-39, 44-52 stand rejected under 35 U.S.C. §102. Claims 7, 9, 10, 14-23, 29-36, 41, 41-49 stand rejected under 35 U.S.C. §103. The specific grounds for rejection, and applicants' response thereto, are set out in detail below.

### **II. Rejections Under 35 U.S.C. §112, Second Paragraph**

Claims 13 and 25 are rejected under the second paragraph of §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter. Claim 13 has been amended to address the examiner's concern and now recites "said sample" instead of "said source". Claim 25 does not, as the examiner states, recite the limitation of "said source" and as such Claim 25 has not been amended to address this specific rejection. Applicants believe the Examiner was referring to Claim 39, which is hereby amended to recite "said sample" instead of "said source." Reversal of these rejections is respectfully requested.

### **III. Rejections Under 35 U.S.C. §102**

Claims 1-6, 8, 11-13, 18-32, 34, 37-39, 44-52 stand rejected under 35 U.S.C. §102(a) and §102(e) as being anticipated by Tubbs *et al.*, Kachman *et al.*, and Bucknall *et al.* In response, applicants submit an Inventors' Declaration under 37 C.F.R. §1.131 and supporting

documentation. This declaration and the attachments thereto should be sufficient to swear behind the references. As such, applicants respectfully request that these rejections be withdrawn.

Claims 1-6, 8, 11-13, 18-32, 34, 37-39, 44-52 also stand rejected under 35 U.S.C. §102(b) as being anticipated by Mirgorodskaya *et al.*, Lahm *et al.*, and Goborn *et al.* For literal anticipation of a claim, “a reference must disclose every element of the challenged claim and enable one skilled in the art to make the anticipating subject matter.” All of the cited references teach the use of labeled standards and do not mention nor suggest the use of unlabeled standards. The claims as currently amended recite such a limitation, and thus are not anticipated by the references cited by the examiner. In light of these statements and the amendments presented herein, reconsideration and reversal of this rejection is respectfully requested.

#### **IV. Rejections Under 35 U.S.C. §103**

Claims 7, 9, 10, 14-23, 29-36, 41, 41-49 stand rejected under 35 U.S.C. §103(a) under the aforementioned references in light of Forssman *et al.* and England *et al.* Applicants assert that in light of the Inventors’ Declaration submitted herein, those references antedated can no longer be combined with either Forssman or England. Moreover, the remaining references, when taken in combination with Forssman or England, no longer render the invention obvious. As mentioned above, the remaining references all use labeled isotopes in the standards used for analysis. One of skill in the art would have had no *a priori* reason to expect success in using MALDI-TOF analysis with unlabeled standards based on the teachings of any of the cited references.

Further, it would not have been obvious to one of skill in the art that a MALDI-MS analysis, as used in Forssman, would necessarily translate successfully to MALDI-TOF in the manner claimed in the present invention. Lastly, England merely teaches the importance of

identifying cardiac or skeletal actin, it does not teach or suggest a method for quantifying these proteins in a similar manner as claimed in the current invention. As such, neither the Forssman nor England reference can be properly combined with any of the remaining §102 references for this rejection, and furthermore, even if combined, neither Forssman nor England could successfully render the present invention obvious. In light of these statements, reconsideration and reversal of these rejections is respectfully requested.

#### IV. Conclusion

In light of the foregoing, applicants respectfully submit that all claims are in condition for allowance, and an early notification to this effect is earnestly solicited. Should Examiner Liu have any questions regarding this response, he is invited to contact the undersigned attorney at (512) 536-3184 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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